

HOUSE BILL REPORT

E2SSB 5292

As Reported by House Committee On: Local Government

Title: An act relating to exempting certain structures that are constructed and maintained by irrigation districts and port districts from the definition of critical areas.

Brief Description: Exempting certain structures that are constructed and maintained by irrigation districts and port districts from the definition of critical areas.

Sponsors: Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Honeyford, Schoesler, Swecker, Holmquist Newbry and Roach).

Brief History:

Committee Activity:

Local Government: 2/17/12, 2/21/12 [DPA].

Brief Summary of Engrossed Second Substitute Bill (As Amended by Committee)

- Modifies the definition of "critical areas" within the Growth Management Act to exclude certain water-based artificial features or constructs from being considered part of a fish and wildlife habitat conservation area, one of the five types of critical areas.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass as amended. Signed by 9 members: Representatives Takko, Chair; Fitzgibbon, Vice Chair; Angel, Ranking Minority Member; Asay, Assistant Ranking Minority Member; Rodne, Smith, Springer, Tharinger and Upthegrove.

Staff: Ethan Moreno (786-7386).

Background:

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA

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establishes land use designation and environmental protection requirements for all Washington counties and cities, and a significantly wider array of planning duties for the 29 counties and the cities within that are obligated by mandate or choice to satisfy all planning requirements of the GMA.

All counties and cities are required by the GMA to designate natural resource lands and critical areas. In addition to satisfying the designation obligations, counties and cities must protect critical areas through locally-adopted development regulations that comply with requirements established in the GMA. As defined in the GMA, "critical areas" include five general categories: wetlands; aquifer recharge areas; fish and wildlife habitat conservation areas; frequently flooded areas; and geologically hazardous areas.

Summary of Amended Bill:

The GMA definition of "critical areas" is amended to specify that fish and wildlife habitat conservation areas do not include artificial features or constructs, including, but not limited to, irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that are within the boundaries of, and are maintained by, a port district, an irrigation district, or an irrigation company.

Amended Bill Compared to Engrossed Second Substitute Bill:

The amended bill makes technical and grammatical changes to the description of "fish and wildlife habitat conservation areas" proposed in the underlying bill.

Appropriation: None.

Fiscal Note: Available on substitute bill.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is intended to avoid problems with irrigation districts that are related to fish and wildlife. If a manmade drainage district is deemed a critical area, it creates administrative difficulties and costs for the district. Districts have spent thousands of dollars to indicate that a creek is manmade rather than natural. This bill clarifies the definition of critical areas to specifically exclude artificial features. Ports are typically at the end of the drainage basin and this bill will help streamline the process for maintaining districts.

(Opposed) The bill is limited to ports and irrigation districts. It is too narrow and may violate the equal protections clause of the United States Constitution. The bill should apply to everyone, and the broader language of the House companion is preferable to the Senate bill.

Persons Testifying: (In support) Senator Honeyford, prime sponsor; Mike Schwisow, Washington State Water Resources Association; and Jason Jordan, Port of Tacoma.

(Opposed) M.C. Halvorsen.

Persons Signed In To Testify But Not Testifying: None.